# THE CASE OF THE Forfeitures IN IRELAND Fairly Stated, WITH The Reasons that induced the Protestants there to Purchase them.

The Second Edition Corrected.

*LONDON*, Printed in the Year 1700.

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# THE CASE OF THE Forfeitures IN IRELAND Fairly Stated, &c.

SInce the Expedition of King *Henry* II. into *Ireland*, now about 530 years, the Lands of that Kingdom have, by reaſon of the many Rebellions, frequently chang'd their Proprietors, inſomuch that there are



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very few Acres in that Country which have not more than once been veſted in the Crown by Forfeitures.

All the Lands forfeited in that Kingdom ſince that time, (except what in the Rebellion of 1641, was by Act of Parliament ſecur'd to the Adventurers, for the Money they then rais'd in the neceſſity of Affairs here) have all along been beſtow'd by the Kings of *England*, according to their own pleaſure.

His preſent Majeſty, following the Example of thoſe who went before him, has been pleas'd to grant Lands to ſeveral great Perſons, and others whom he eſteem'd deſerving of his Favour; on which all the Chief Judges of that Kingdom, other Judges and Great Men in the Law, and others encourag'd by their Example, have as Purchaſers, laid out conſiderable ſums of Money. This they did becauſe they knew that a Grant under the Great Seal is a good and legal Title, and That by which the Engliſh there have all along held their Eſtates.

In

In regard of the Bill that is offer'd to reſume thoſe Grants, 'tis humbly repreſented to the Lords and Commons in Parliament, that they in making Laws, are, in their Great Goodneſs and Wiſdom, always very tender of every Man's Right; That the Grantees, and thoſe who purchas'd under them have a juſt and legal right to the Lands granted by his Majeſty; that barring an Iriſh Act of Parliament, (which in this caſe is not conſider'd as appears by the E. of *Athlone*'s Grant) the Duke of *Ormond*'s, and all the Eſtates granted ſince 41, and in former times, may as well be reſum'd as thoſe given by his Majeſty, ſince we are told that *no time occurs to the King and Parliament.*

'Tis ſaid that Grants have frequently been reſum'd by Parliaments, therefore they have a juſt right to do it: And if ſo neither the Grantee nor Purchaſer has reaſon to complain, ſince the former is depriv'd of that which Parliaments have frequently diſpos'd of, and the later

ſuffers

ſuffers as one who purchas'd under an uncertain, and bad Title, and forgot what the Law ſays, *Caveat Emptor*.

If this were ſo, it might perhaps be decent not to urge it in the preſent Caſe, conſidering the infinite Obligations His Majeſty has laid upon us, and how reaſonable it is, he ſhould be allowed to reward thoſe, whom he knew deſerved great marks of his bounty and Favour. But laying theſe conſiderations aſide, I will allow that, if indeed the nature of our conſtitution be ſuch, that a Perſon who holds a Forfeited Eſtate by the Kings Grant, and he that purchaſes under that Grant, has but an uncertain and bad Title, and that it appears to be ſo, by the frequent reſuming of Eſtates, then there is ſome weight in the Objection. But if the Parliament has never declar'd, That the King has no right to diſpoſe of ſuch Forfeitures to the Crown; if the Judges, the Interpreters of our Laws, have always agreed, That ſuch Titles are good in Law; if they are the Titles by which the Lands of that, and this King-

Kingdom, have always been held, I humbly conceive the Caſe is otherwiſe.

A Late Author has taken a great deal of pains to ſhew, that Parliaments in former times have made ſuch Reſumptions.

He ſays (which he could not avoid owning) That, *Our conſtitution ſeems to have been, that the Kings always might make Grants, and that thoſe Grants if paſs'd, according to the forms preſcribed by Law, were valid and pleadable not only againſt him, but his Succeſſors.* If the Kings may make Grants, and they are valid; Does not an Act of Reſumption deprive a man of that which he has a Juſt and Legal right to? And will it not be too great a hardſhip on the King, as well as the Perſons concern'd in his Grants, to force him to take away what he has granted, and ſo to injure his Subjects whom he has always tenderly protected, and with the hazard of his blood preſerved? That Author is of another opinion; for he tells us, *'Tis likewiſe manifeſt, that*

*the Legiſlative Power has had an uncontelled right to look into thoſe Grants, and to make them void whenever they are thought* EXORBITANT. If'tis only *Exorbitant Grants* that are to be *look'd* into, and made *void*, Will not a general Reſumption, which voids all Grants, without examining what the Merits or Rewards of Perſons are, be ſtill a Hardſhip? What an Exorbitant Grant is, I don't underſtand, nor has the Legiſlative Power ever determin'd the exact boundaries between a Grant that is, and is not *Exorbitant*. Becauſe this Author would have His Majeſties Grants voided, 'tis plain he thinks them *Exorbitant*; But if many former Kings have made Grants vaſtly greater, which never were look'd into, or made void. If many of His Majeſty's greateſt Grants put together, will not equal the value of one Grant, made by the Parliament, ſince His Majeſty's Reign, to one Perſon, and a Foreigner too (for which he is not the more in our Author's eſteem) can they with any decency be reckoned amongſt thoſe Exorbitant Grants

Grants which ought to be resum'd?

'Tis hard to say what the Legislative Power can't do, *Id potest quod jure potest.* So that whosoever affirms they have power to resume the King's Grants, if they please, I believe, will not deny that they may likewise Repeal former Acts of Parliament, and consequently dissolve the Right that Men enjoy by them. He has indeed in his List of resumptions (which are nothing to the present purpose) instanced one, such as it is, whereby Grants were made void altho' confirmed by Parliament.

This Author when he says, That they have had such a Power, must mean only that they have exercised such a Power, and frequently resumed Estates, which being vested in the Crown by Forfeiture, have been granted away by the Kings of this Realm. His Impartial and Intelligent Reader, I believe, will own, That he has demonstrated nothing of this. He has, he says, taken a vast deal of pains; but to what purpose? Has he in his *laborious search*, discover-

ed any Act that voided the vaſt Grants made after the Rebellion in 1641; or that reſum'd the eſcheated Counties, and other Lands diſpoſed of by King *James* the Firſt; or that broke the many and great Grants of Forfeitures made by Queen *Elizabeth*? Does he know of any Reſumption of the great multitude of Eſtates given by King *Henry* the VIIIth? No: though they were acquired by Act of Parliament, and not by the King in War, yet the King diſpos'd of them as he pleas'd, and the Grantees and Purchaſers have not as yet complained of the hardſhip of a Reſuming Act.

Have then the Grants of all the Princes ſince the Reformation created good Titles in *Ireland*, and paſſed current and free from all Reſumptions? Yes, 'tis certain they have, and that Author is challenged to ſhew the contrary. This, methinks, ſhews a cuſtom ancient enough, to ſecure the Grants, of His preſent Majeſty, to whom we owe more than to all the Kings before him. 'Twill

'Twill be ask'd whether there were no ſuch Reſumptions before the Reformation; if there were, why (conſidering the ſtreights we are in) ſhou'd not the ſame courſe be taken now to eaſe the Nation of Taxes? In order to give this queſtion a clear and ſatisfactory anſwer, I ſhall obſerve that the Grants made by our Princes have been of two ſorts. Firſt, of Lands that have fallen to the Crown by Rebellion or Conqueſt: Secondly, of Lands or Hereditaments that were of the Demeſnes, or ancient Revenues of the Crown.

All Eſtates of the Firſt ſort are undoubtedly, by our Laws, in the gift of the King; our conſtitution does not only allow him to diſpoſe of theſe, but ſuppoſes he will do it. 'Tis ſo far from being a Crime in any of his Miniſters to countenance the Kings doing this, that on the contrary, ſhould they adviſe him not to make Grants, but to keep his Acquiſitions in his own hands, they ought

ought to be cenſur'd for it: Becauſe it might prove a thing of ill conſequence to our Country, for if all the Revenues that fall to the Crown were kept there, the King would in time become abſolute Poſſeſſor, and Lord of all, and his People muſt be his Slaves.

As it is certain then that the King may, and (for a very good reaſon) ought, by our conſtitution, to Grant away ſuch Lands as theſe; ſo it is as certain that not only ſince the Reformation, but *Norman* Conqueſt likewiſe, an Act never has paſſed to reſume Grants of this kind.

As to the other ſort of Grants; I mean of the Lands or Hereditaments that were of the Demeſnes or Ancient Revenue of the Crown, it muſt be own'd that they in former times, have made ſome noiſe in this Kingdom. All that a late Author has ſaid, in a diſcourſe too long for the Argument, relates only to ſuch ſort of reſumptions: Therefore his precedents will not touch the *Iriſh* Grants, though

though among other things, his Book was plainly Calculated for them.

But ſince 'tis poſſible, many, at this time, may be induc'd to entertain too harſh and wrong ſentiments concerning Grants of this kind; ſince the prejudices of theſe Men, (if they ſhould reckon that the Caſe of the one differs not from the other) will reach to forfeitures, and ſuggeſt to them that a reſumption is highly reaſonable: I will give the plaineſt and ſhorteſt account I can of thoſe reſumptions; I mean of Grants of the Crown Revenues, and that taken from what the Author himſelf ſays; and leave it to all True *Engliſh* Men (who love this Government) to Judge whether all his noiſe and clamour, and ill-tim'd reflections might not, in juſtice, as well as good breeding be ſpared.

He tells us (*pag.* 302) that *anciently, it ſeemed a fundamental that the Crown-Lands were not alienable.*

To

To whom did it ſeem ſo anciently? Not to the Kings themſelves; for they all along made Grants of the Revenues of the Crown, and that ſo commonly, that this Author will be hardly able to name two ſince the Reign of *William* I. that have not made Grants of ſome of the Revenues of the Crown, and thus broken in to this fundamental: Nor to the Parliament; for they never have condemned ſuch Grants, never made an Act of Parliament to prohibit them. This appears from the Act made (27. *Hen.* 8. c. 11.) to ſecure the Fees belonging to the Clerk of the ſignet: or, (if the Author will have it ſo, *vid. pag.* 298) *To inforce by a poſitive Law*, the ancient *ſteps in paſſing grants from the Crown.* Tho' in this he is miſtaken in the Judgment of Lawyers (mention'd by himſelf, *p.* 30) who ſay that theſe methods are *directive* not *coercive*, or as *Hobart* ſays, (Hob. Rep. Colt and Glover, *p.* 146) *That theſe kind of Statutes were made to put things in ordinary form, and to eaſe the Sovereign of Labour, but not to deprive him*

*him of Power.* But however that be, this is certain, that to make ſuch Grants as theſe, is what is permitted our Kings, even by the Statute Law, and the Law never preſcribes a rule for doing that which it allows not to be done.

But does not this Author tell us that 11. *Hn.* 4. *'Twas plainly and directly enacted, That all manner of Hereditaments, which from thence forward ſhould fall into the Crown, ſhould not be alienable, but remain to the King. This,* he ſays, *is poſitive, unrepeal'd, (as we know) and ſtill as much in force as* Magna Charta, pag. 303.) Here this Gentleman has been guilty of great inadvertency, in citing this as a *Poſitive Act* and ſtrong as *Magna Charta* for prohibiting alienations of the Revenues of the Crown, I hope he only forgot how he mentioned this Act in the foregoing part of this Book. (*p.* 145.). I muſt deſire the Reader to turn to the place he quotes, the very ſame year of *Henry* the IV*th.* and the ſame Parl. Roll. There he tells us, The Commons pray the

King, *That for ever hereafter, no Grant might be made of any Hereditaments or other profits of the Crown, except Offices and Bailiwicks, till the King ſhall be quite out of Debt; and unleſs there be remaining in his Coffers ſufficient for the Proviſion of his Family.* The Act as 'tis here deliver'd is differing from the *Magna Charta*, the poſitive Law he mention'd before: And yet here he has given the Original a very dextrous turn; for the *French* in the Act is *En Temps enſuivants*, (which is no more than *for the future*) but he has render'd it, *for ever hereafter*; and ſo would infer that That, which 'tis plain was no more than a Petition to the King, not to Grant away the Hereditaments of the Crown till he had ſufficient for the ſupport of his Family, was a poſitive Law, which was to ſtand for ever, like *Magna Charta*, to Guard the Revenues of the Crown, and reſtrain the King from making Grants. This Gentleman is miſtaken, the Wiſdom of this Nation never did, and, I'm ſure, never will make ſuch an everlaſting Law as he mentions. They foreſaw what

what the Power of the King in time would grow to, if there ſhould never be any alienation, and that this fundamental would ſhake the foundation of the Government : They know better things. My Lord *Coke* tells us, (2*d*. Inſtitut. *pag*. 496, 497) *That the King's Prerogative is part of the Law of* England, *and that this is ſhewn in his Letters Patents for Lands, Tenements, and other things.* Without this Prerogative I can't ſee how he can Govern, and diſcharge that great duty incumbent upon him. What is a King unleſs he have Power to Reward and Puniſh? Some may be ſo *warmed with a zeal for the Publick*, that, without any hopes of reward, they may fight for it, and that ſo reſolutely too, that they *neither will give nor ask quarter.* But there is not in all Men ſo much Vertue, and Piety towards their Country. Some are excited to perform great Things out of hopes of the ſame Reward that others have reap'd before them: And if it ſhould not lie in the power of the Prince to do it, his Subjects may ſuffer greatly for want of their Services. All the Lands that are in the

the King's Dominions are ſuppos'd to have been given by him, and whenever he gave, if any murmuring followed upon it, the reaſon of it was, not becauſe he had not a right to give, but becauſe he gave away that which was neceſſary even to the ſupport of his Family; and 'twill appear, even from what this Author ſays, That 'twas then only that aſſumptions were thought of.

He tells us that the *firſt Regular aſſumption* was in the Reign of *Henry* the VIth. He does not then approve of the Reſumption made by *William Rufus*, who alienated many of the Crown-Lands, and took them again to give to others: Nor that of King *Stephen*, who play'd the ſame trick of giving, and taking to give again: Nor that of *Henry* the II. who laid his hands upon the *Regni reditus*, or *dominia*, diſpos'd of by King *Stephen* among his Followers: Nor that of King *Richard* the 1ſt. his Son, who to furniſh himſelf for his expedition to the Holy Land, ſold ſeveral parcels of the Crown Revenue,

venue, and reſum'd them afterwards.

Theſe *reſumptions* are exploded as irregular, being made only by the Kings themſelves, who thought of their Gifts, as the old *Iriſh* Proprietors do of their Eſtates, That they cannot ſo diſpoſe of them, but that they ſtill have a good Title.

The Regular reſumption made in the Reign of *Henry* the VIth. when the occaſion and circumſtance of that Act are conſider'd, will, I believe, appear to be as little the purpoſe; and very groundleſly produc'd for a precedent at this time.

The Act was made in the 28th. year of *Henry* the VIth. The occaſion of it is very well known. Sir *John Forteſcue*, then Lord Chief Juſtice of the Kings-bench, tells us (*pag.* 257) that that Prince had, after he came to the Crown in Lordſhips, Lands, Tenements, and Rents, near hand to the fifth part of his Realm, above the Poſſeſſions of the Church; which was a greater Revenue, he ſaid, than that of

of the *King* of *France*, or the *Sultan* of *Babylon*, or of any King that then Reigned over a Christian People. This great Revenue had in his time been so wasted with extravagant Grants, that 'twas but a little more than the fifth part of what was necessary to defray the charge of his House; for the necessary expences of his houshold besides all other ordinary charges, came to 24000 *l.* yearly, but the Revenue of the Crown was but 5000 *l. per. ann.* as is set forth in the preamble of the Act. Besides, the Commons tell the King, that 'twas made out in the former Parliament, that the King was indebted 372000 *l.* This Sum (which had swollen bigger now) was a vast one, as Money went in those days. In this poor and low estate of Affairs, when (as a Reverend Person who liv'd in those times, tells us, *vid. p.* 355) *The Revenues of the Crown were so rent away by ill Counsel, that the King was forc'd to live* DE TALLAGIIS POPULI; *and was grown in debt* 500000 l. when the *poor Commons* (as they say in the Act) *by finding Victuals for his houshold*, &c. were

were *well nigh deſtroyed*: This *firſt Regular Reſumption* (as 'tis call'd) was enacted.

The occaſion of it we ſee; 'Twas the low, and miſerable condition to which the Crown, exhauſted by extravagant Grants, was reduc'd, and the great Poverty of the Kingdom. If this ſhou'd, in good earneſt be aſſigned for a reaſonable and neceſſary cauſe of a reſumption now, our murmuring might be well reckoned among our other iniquities, which we have reaſon to fear will pull down the Vengeance of God upon us.

But after all, what was this Act, does it contain any thing that gives the leaſt colour of a precedent for that which is now propos'd? Was it not made in favour of the King to get him bread? Was he not to reſume the Lands for the Crown? Was there any invaſion upon his Prerogative? No: 'Twas not inſinuated, that he had not a right to make ſuch Grants. Sir *John Forteſcue*, then Chief Juſtice of the Kings-bench (by whom our Author

Author thinks this Law was model-led) informs us how the King's Revenues were diſpo'd of, and the Crown impoveriſh'd. And among other things, ſays, *That ſome of the ſaid live-lihood, HIS GOOD GRACE had given to ſuch as ſerved ſo notably, that as their Renown will be Eternal, ſo it did befit the King's Magnificence, to make their Rewards Everlaſting in their Heirs, to his Honour, and their perpetu-al Memory.*

Here we have the opinion of *a ve-nerable and Learned Lawyer* (as he is juſtly call'd) to aſſure us, that 'twas not only the right of the King, but well becoming his Majeſty, to make Grants of Lands of the Crown, to deſerving Perſons and their Heirs for ever. And tho' a great many not ſo deſerving, had, by their ſolicitati-ons wrought themſelves into his Poſ-ſeſſions, almoſt to the utter diſhe.iſon of his Crown; yet that worthy man, in ſuch a low and deplorable ſtate of Affairs, propos'd that they would give the King a ſubſidy to gratifie Perſons in caſe of a reſumption. A plain de-

mon-

monſtration that 'twas thought unreaſonable then, to pray the King to reſume the Revenues of the Crown (for this, after ſo much noiſe that is made, will appear to be the whole that either this or the following Acts do contain) which he had profuſely given away, without enabling him, in ſome ſort, to repriſe the Perſons whoſe Grants he ſhould reſume.

But in a Caſe ſo very plain, what need many words? In this Act there is no reſtraint upon the King, he is pray'd to reſume, but this Prayer is in favour of himſelf, that his baskets and coffers might be fuller. There is no neceſſity laid upon him to enter into the Poſſeſſions of his Friends, and, together with them, to ruin multitudes of his Subjects. 'Tis ſo far from this, that the King when he agrees to the Petition and Reſumption, excepts all thoſe that he ſhall be pleas'd to grant ſavings to. And accordingly we find, that beſides 16 ſavings inſerted by the Commons, there were 185 made by the King. Which aboundantly ſhews what this

Act of resumption was, it shews it indeed to be a *Regular one*, (as the Author calls it) and the Reader sees that 'tis an excellent precedent for the present Bill.

Among other things concerning this Act, the Author observes, *That the great Earl of* SHREWSBURY, *who had done so many Heroick Actions, and had so valiantly fought for the Honour of his Country, had but* 100 l. per. ann. *Pension for his Life, and some Lands in* Ireland, *then of no value, the said Earl having had no other recompence for his long services, which moderation of his is a reproach to the avarice of the present times.*

I must with this Gentleman own, that the Heroick Actions of that Noble Earl (whose name carries merit in it) deserved the greatest recompence that could be given: But considering the poverty of those times, and the great value of Money, the Recompence, tho' not equal to the Merits of the Man, yet was greater than he represents it.

He

He adds that he had beſides ſome Lands in *Ireland* then of no value; the words of the Act are, *Till then yeilding nothing being in the hands of Rebels.* I can aſſure this Gentleman, that the Lands of that noble Lord, of which afterwards his Family was deprived by the Statute of Abſentees made in *Ireland*, were more than all the *Iriſh* forfeitures diſpoſed of by his preſent Majeſty, put together. This conſidered, he might with more Juſtice have ſaid, That this ſhews the *moderation* of his Grace, the preſent Duke of *Shrewsbury*, who, notwithſtanding the great Services of his Anceſtors in *Ireland*, notwithſtanding his own great Merit, has not beg'd any Grant of the King in that Kingdom, where he had ſo good a claim. But ſince in comparing Grants made formerly with thoſe of the preſent time, he has mentioned the favours conferred on a Noble Lord of that Great and Honourable Family, to make His Majeſty's Grants look the greater, and more exorbitant; I will tell him what I find in my Lord *Coke*'s 12th. Report (E. of *Shrewsbury*'s Caſe) that

King

King *Henry* VIII. did grant to *George* E. of *Shrewsbury* and his Heirs, the *Abbey* of *Rufford*, with the Lands thereto belonging in the County of *Nottingham*; the Lordſhip of *Rotheram*, in the County of *York*; the *Abbeys* of *Cheſterfield*, *Shirbrook* and *Goſſadel* in the County of *Derby*, with divers other Lands and Tenements of great value. This I mention here, being led into it by the Author, to ſhew that there were great Grants in former times. Of which, more hereafter.

What this Act of *Henry* VI. was, what force and operation it had, whether that which this Gentleman would ſuggeſt, the Reader may gueſs from what follows. Had all the Crown Lands diſpos'd of by that King, (except thoſe that were ſecured to the Grantees by the ſeveral reſervations made by the Commons and the King himſelf) by that reſuming Act, been re-inveſted in the Crown; there could have been no place left for the complaints, and ſeveral reſuming Acts or petitions that fol-

follow'd. By them the nature and validity of this Act, as well as their own force and operation is diſcover'd.

The very next year (*29th Hen. 6.*) Another appears of the ſame nature with this. In it there are great complaints made by the Commons of their *Poverty of many unportable charges laid upon them*, and of there being no benefit of the former *Reſumption* (how ſo I wonder, if 'twas a poſitive reſuming Act) *Therefore in the moſt lowly wiſe to us poſſible*, we (ſay the Commons) *beſeechen your moſt noblay, graciouſly and tenderly to conſider the great benefits that ſhould grow unto you, and to this your Roialme, by the means of this reſumption.*

The King in anſwer to the petition tells them that by the advice of his Lords Spiritual and Temporal, his Exellency is agreed to reſume, *&c.* But 'tis with proviſions and Exceptions for all that he pleaſes, as appears by the aſſent.

Four

Four years after this (33. *Hen.* 6.) another Act of Reſumption paſſes, which ſhews what kind of Acts theſe were.

The Commons ſet forth, That notwithſtanding their large Grants of Goods, he was indebted in outragious Sums; that the Revenue of his Land did not ſuffice to ſuſtain his houſhold, *whereof the People* (ſay they) *lament and ſorrow piteouſly.* What became then of the Lands veſted in the Crown by the former Reſumptions?

The King aſſents to this petition as before; but with a *Reſerve* for his *Prerogative*; and ſavings for what he pleaſed. This ſhews the meaning of thoſe Acts: They were only prayers and petitions to the King to pity them, and the low Eſtate of his Crown, and to reſume as much of the Revenues he had given away, as was ſufficient to ſupport his Family. What could there be more in ſuch a Reſuming Act, wherein the King, in the Royal Aſſent, inſerts a ſaving

ſaving for his prerogative. This, I think, is plainly manifeſt by the effect, and operation of theſe Acts.

Theſe were the Acts of Reſumption made by *Henry* VI.

*Some may object*, (ſays this Author) *that* Henry VI. *under whoſe Reign theſe three Reſumptions were made, was a weak Prince, unfortunate abroad, ingaged in Factions at home, and kept under by the houſe of* York. I would ask that Gentleman what need there is of ſuch an objection; for what effect had all theſe petitions? what was this weak King forced to do? Did not he aſſert his prerogative? Were there any reſumptions? by what followed 'twill appear whether there were or no.

This Gentleman was not aware that the inſinuating this Objection makes greatly againſt him. For what opinion had the people of Reſumptions at that time, or of their right of claiming them, when in the Reign of ſo weak a Prince, their Acts (as they are called) avail'd no more.

About

About five years after (1 *Edw.* IV.) as ſoon as that King came to the Crown, his Subjects deſir'd a *Reſumption*: By this all Grants were to be reſum'd that were made ſince the latter end of *Rich.* II. which was above ſixty years: The reaſons will be clear to any one that knows the Hiſtory of *England*, This Gentleman does well to name this among the other Precedents, to let us know the moderation of thoſe times, and to ſhew that no Preſcription will ſecure Men againſt a *reſuming* Act. This *reſumption*, he ſays, was too large to have any good effect. Why ſo? The more Lands it ſeiz'd, the better the effect: But it ſeems it did no execution. For

Three years after (*Anno* 3 and 4 *Edw.* IV.) there paſs'd another Act. This Act as well as the former paſs'd with ſuch exceptions as it ſhould pleaſe the King to make. A *prodigious number* of theſe ſavings, it ſeems, there were *inſomuch that*, our Author ſays, *they ſeem intirely to defeat*

*feat the design and intention of the Act.* Therefore.

Three or four years after ( 7 *Edw.* IV. ) we are told of another; this the King desires, for he tells them he is *resolv'd to live of his own, and not be a charge to his Subjects.* This passes, with what Provisions and Exceptions the King is pleas'd to make, but as ill luck would have it, *the Exceptions*, our Author tells us, *frustrated the good intentions of the Commons.* Thus according to him each of these three Acts was a *Felo de se.* Why then are they produc'd? 'Tis to raise a Cloud of Witnesses, and alarum people with a great noise of Resumptions in former times, tho there be nothing at all in them. On the miscarriage of these anothor Act is made.

10 *Edw.* IV. But 'tis with such provisions and exceptions as by the K. shall be made, who tells the Commons he will reward every of his Subjects for their merits. We are told by this Author that a great number of exceptions are

brought by the King, but these don't seem of that nature, as if 'twere design'd they should defeat the intentions of the House of Commons.

This Gentleman, in giving an account of these Resumptions, had done well if he had told us how they happen'd; this would sufficiently inform us what they were. Every one knows how *Edward* the IV. came to the Thrown, that he was Crown'd several years before the Death of *Hen.* VI. Our History tells us that to raise some with the ruin of others, he distributed the Lands and Possessions of those that sided with King *Henry* amongst his own Favourites and Followers; having, the better to paliate his own proceedings, first made Proclamation, that whosoever of the contrary Faction would come in and submit, should be received to Grace, and restor'd to their Patrimonies. *Trust. Hist. pag.* 183.

In

In the 10th. Year of his Reign, we find King *Henry* gets the aſcendent again; K. *Edward* IV. is Proclaimed an Uſurper; is forc'd to quit the Kingdom. Then the Parliament was aſſembled at *Weſtminſter*, wherein King *Edward* and his Friends, and Followers, are Attainted of High-Treaſon, and their Goods and Lands ſeiſed to King *Henry*'s uſe. *Truſt. Hiſt. pag.* 194.

This accounts for the *Reſumption* made three Years after (13. *Edward* VI. laſt mention'd) when King *Edward* got the better again. 'Twas an Act to re-inveſt Crown-Lands and Goods, which King *Edward* IV. had in the beginning of his Reign, which (as I've ſhewn) were afterwards ſeiz'd by Parliament, for King *Henry*'s uſe, and had by him been diſpoſed of among his Friends. So that this, it ſeems, was only an Act to reſume from King *Henry*'s Friends, to veſt them in the Crown, and in effect to give them to King *Edward*'s Favourites, for giving the Royal aſ-

ſent, he told the Commons, That the Bill ſhould not withſtand that *Right* and *Equity* which obliged him to do to every of his Subjects according to their Merits.

*Anno* 1 *Henry* VII. Another Act of *Reſumpiion* paſſes, by this the K. is to ſeize and aſſume into his hands whatever *Henry* VI. his Unkle had, the 2*d*. day of *October*, in the 34*th*. Year of his Reign; and it makes void all Grants made by King *Edward* IV. King *Edward* V. and *Richard* III. *By Authority of Parliament*, or otherwiſe.

Here is an excellent precedent for Reſumptions, one that ſhews how a great deal of Money may be raiſed, if we will but Copy after this Exemplar: For this looks backward thro' three entire Reigns, and ſeizeth what was given even by Act of Parliament. Either this is a Regular *Reſumption*, or it is not: If it be not, why is it mentioned? If it be, this Gentleman ſhews where *England* may raiſe a vaſt Sum upon an extraordinary

nary occaſion. 'Twill be only reſuming what has been forfeited in *Ireland* ſince 1641, or if that ſhould be too little, carrying the Act up to Queen *Elizabeth*'s time; which, according to what he has delivered, in his Doctrine of Reſumptions, and Conqueſt together, may very well be done.

This Gentleman, when he, in order to influence the Parliament to reſume, deliver'd this among his many other excellent Precedents, ought to have told us the true cauſe of this very extraordinary Act. 'Twas in the 1*ſt*. of *Henry* VII. who was Nephew to *Henry* VI. depos'd by *Eward* IV, in the 34th. year of his Reign. This *Edward*, together with *Edward* V. his Son, and *Richard* III. kept *Henry* VI. and his Heirs out of the Throne for many Years. When therefore the Crown return'd into the Lancaſtrian Line, and *Hen.* VII. was Crown'd, the Parliament call'd in the firſt year of his Reign made all the Grants of the former Uſurpers void, and veſted in the King all that his

his Unkle posſeſſed, at the time he was Depos'd. Is this any thing to the purpoſe in the preſent Caſe, and is taking from Uſurpers and their Favourites, and veſting it in the King any invaſion upon the King? no, *Hen.* VII. in giving the Royal aſſent reſerv'd a power to himſelf, to make what exceptions he pleas'd, and to reward the Merits of his Friends,

The laſt Reſumption of Crown Lands made by the Kings of *England*, was in this Kings Reign. After this now mentioned our Author tells us, there were ſome particular ones, as *anno* 11. *Henry* VII. An Act of *Reſumption* of divers Caſtles, Manors, Lands, and Tenements, which were formerly given by King *Edw.* III. and King *Richard* II. to *Edmond de Langley*, Duke of *York*. Though this would ſuit better with times which ſome expect hereafter, but I hope never will ſee, yet it ought not to be omitted here, becauſe it affords a Precedent for looking further backward, and ſhews, that when we are reſuming, we may rake deep into

Anti-

Antiquity, and graſp at things that were given 120 years before. This our Author is not for, he is for confining his Reſuming Act within the Grants of the preſent Reign; this we can't aſcribe to any extravagant reſpect he has for His Majeſty; nor can I tell whether we owe it to his Moderation, for had he adviſed a large retroſpect, he had, perhaps, been too diſobliging, and defeated the deſigns of his Book. If we would follow him, 'tis hard to know what meaſures to take; when he propoſes a Pattern for us to imitate in our retroſpection, he lays before us the Example of thoſe Kings who reſumed their own Grants without aſſiſtance of Parliament, *vid. pag.* 428. In another he tells us, that theſe are irregular, and when he comes to give account of the regular, he mentions ſuch as either had no manner of effect at all; or elſe took a very large compaſs, and went very far back, in their way breaking over Acts of Parliaments.

On the whole matter, these Observations may be made.

*First*, That all his noise about Resumptions, has been of Grants of Lands, and Revenues of the Crown.

*Secondly*, That such Grants as these are not contrary to the Common or Statute Laws of this Kingdom.

*Thirdly*, That they were never complained of, but in the lowest and most deplorable Circumstances of the Crown; and then not upon the account of their being illegal, but upon the account of the indigency of the Prince, and the necessities of his Family.

*Fourthly*, That the first Regular Resumption (as 'tis call'd) was in the reign of a Prince, who had committed the most extravagant wasts upon the Crown; and had lessen'd almost all the revenues of it: And yet neither this, nor those that follow'd had any manner of effect.

*Fifthly*,

*Fifthly*, That the Reſumptions afterwards in the Reigns of *Edw.* IV. and *H.* VII. were voidances of Grants made by Uſurpers, as they were call'd, and veſting them in the prevailing Kings.

*Sixthly*, That theſe Reſumptions many of them brook through Acts of Parliament, and unravel'd things for ſeveral Reigns backward.

*Seventhly*, That theſe cou'd not properly be called Acts, but rather Addreſſes to the King. For had they been poſitive Acts of Reſumption, how cou'd they be defeated, as our Author owns they were.

*Eightly*, That, However this be, yet 'tis certain that in all the reſuming Acts, the King's Prerogative was always reſerv'd, and Savings and Exceptions allow'd to as many as he pleas'd.

From what has been ſaid, it appears what weight there is in this Gentleman's Precedents; what con-

cluſions may be drawn from them, and how juſtly they are propos'd to influence the Legiſlative Power at this time. Former Kings impoveriſh'd the Crown, by their extravagant Grants; in the heighth of this miſery, the Commons pray'd the King wou'd reſume into his hands the Revenues of the Crown, for the ſupport of his Family, but preſerve what he pleas'd for his Friends; Therefore 'tis reaſonable that we ſhou'd now reſume all that our King has diſpos'd of, all the Lands forfeited by Rebells, whom he ſubdu'd with the hazard of his Life. This is an extraordinary Inference.

'Tis the King's Prerogative, his undoubted right to diſpoſe of ſuch Forfeitures: 'Tis a right that never was deny'd to any former Prince: And a poſitive *reſumption* of his own Grant is what has never been required from any King of *England*. Before this Gentleman, who ſeems to be mightily concern'd for the good of his Country, had preſs'd it ſo violently, I wiſh he had conſidered.

*Firſt*,

*Firſt*, Whether ſuch a Reſumption as this would not reflect too much on the *avraice of the preſent age*.

*Secondly*, Whether his Majeſty, who has reſcu'd us from Slavery and Popery, who has Fought our Battles Abroad, who has reſtor'd the Balance of *Enrope*, and thereby retriev'd the Honour and Glory of the Engliſh Nation, ought to be deny'd that, which was the undoubted Prerogative of his Predeceſſors.

*Thirdly*, Whether this be agreeable to our former Acts, whether it will not ſound odd here after in our Annals, and make us ſeem to our Neighbours a wavering and uncertain People.

*Fourthly*, Whether it be not dangerous and unpolitick to tell the World, and our Poſterity, in ſo ſolemn a manner, that it ſhall not be in the power of our King to reward the ſervices of Men who hazard their Lives and Fortunes, in the times of greateſt danger.

*Fifthly*, Whether it be not too great a hardſhip to turn Men out of the Poſſeſſions which they enjoy by the Laws of this Land, and thereby ruine multitudes of Families.

To ſilence the murmuring and complaints of all Perſons, whether Grantees or Purchaſers, and to juſtifie a *Reſumption*, we are told of a claim made by the Houſe of Commons, and of His Majeſty's promiſe. If the Parliament claim'd theſe Eſtates to apply to the uſe of the War, and His Majeſty promis'd it ſhould be ſo, were not thoſe who obtain'd Grants afterwards, and laid out Money upon them very faulty? are ſuch practices to be encourag'd? and do not they juſtly ſuffer?

This caution here given, this claim put in by the Houſe of Commons, cannot, I humbly conceive, in Equity be pleaded againſt the Earl of *Rumney*, and thoſe who Purchaſe under him; not only becauſe his Grant was before any ſuch caution, but becauſe

cauſe likewiſe there was afterwards a ſaving for him in the Bill that paſſed the Commons Houſe. The ſame may be ſaid of the Earl of *Athlone*, and thoſe who purchaſed under him, ſince, beſides an *Iriſh* Act of Parliament (which has been always reckoned valid enough to ſettle Lands in that Country) there were Addreſſes to the King, in his behalf, here in *England*.

But let us ſee what the claim was which the Houſe of Commons made to theſe Eſtates, and what 'twas the King promis'd.

We find in *Octob.* 1690, 'twas the opinion of the Committee of the whole Houſe, that Ten hundred thouſand Pounds ſhould be rais'd upon the credit, or by ſale of the forfeited Eſtates in *Ireland*. 'Twas reſolved that a Bill ſhould be brought in for applying the ſame to the charge of the War. The Bill paſs'd the Commons Houſe, but fell in the Houſe of Lords. His Majeſty's promiſe was made juſt five days after it paſs'd in the lower Houſe. The words were theſe, *I do likewiſe think it proper to aſſure you, that I ſhall not make*

*make any Grant of the forfeited Lands in* England *or* Ireland, *till there be another opportunity of ſettling the matter in Parliament, in ſuch manner as ſhall be thought moſt expedieent.*

Here we ſee what the King's promiſe was, 'twas that he would not make any Grants till there was another opportunity of ſettling that matter in Parliament, as ſhould be thought moſt expedient. To me it ſeems that the matter was ſettled by the Lords, and that they, by letting the Bill fall, ſhew'd what they thought moſt expedient, *viz.* To let things go in the ancient courſe, not to break in upon the Kings Prerogative, but ſuffer him to diſpoſe of the Eſtates that were veſted in him. By this Fate of the Bill in the upper Houſe, to me it ſeems plain, that the King was diſcharg'd of his promiſe, and that the claim (as 'tis call'd) of the Houſe of Commons was determin'd, for with the Bill loſt in the Houſe of Peers, the opportunity was loſt of ſettling that matter in Parliament, and this likewiſe concluded the Commons, and put an end to their claim.

The next year another Bill was brought in to veſt theſe forfeited Eſtates in their Majeſties; this Bill fell in the lower, as the other had done in the upper Houſe. The ſame fortune had the ſeveral other Bills afterwards in the years following, as 92, 93, 94, 95, 97, 98.

From this account it appears, that this claim put in by the Houſe of Commons, which ought to have deterr'd people from meddling with the forfeitures, was in the year 1690; That ſo long ago people ſaw the Lords thought it unreaſonable by their letting it fall in their Houſe; that in all the years following, when 'twas propos'd, which was in ſeven ſeveral Seſſions, and 'twas rejected perpetually in the Commons Houſe.

'Twas but reaſonable that the *Engliſh* there, who ſuffered for adhering to *England*, and were miſerably ruined by the rapine of their Enemies, ſhould be allow'd, after a longer tract of time, than we allot to the Life of Man, at laſt to Plant the Country, and ſettle themſelves.

A Reſumption they could not fear, 'twas what they never knew practiced to defrate the King's Title; and they could not imagine, that it would have its riſe in this Reign, or be let looſe upon them, to unſettle and ruin them again, who had done ſo much, and had been ſo long waſted by the miſeries of War. Since then the States of the Nation did not think fit nine years ſince, when the Bill was brought in, nor any time after, to veſt the forfeitures of that Kingdom in His Majeſty to help to defray the charges of the War; 'tis humbly repreſented, that it will be too great a hardſhip to do it now. Whilſt the Lands were the Parliaments own (that is, before the King made them the Properties of others) they might have done with them what they would: The Caſe is now otherwiſe; they have been ſuffered to go into other hands. Men have laid out great Sums in Building, in Improving, in Purchaſing, in making good their titles at Law. Theſe conſiderations, and many more that could be named, make a Reſumption a greater

greater ſeverity than ever the Lords and Commons of *England*, who have been always not only Juſt, but Generous and Merciful, can practice on any people. They will not reſume forfeitures, when Men of *Engliſh* Blood and Religion are to ſuffer ſo much by it; they will not ſuffer an inquiſition to go into that Country, which will ſet every Man at variance with his Neighbour, and turn many thouſand Proteſtant Families out of their habitations.

But this will not ſatisfie the Gentleman whom I have mentioned ſo often. He ſays the War of *Ireland* has coſt *England* a vaſt Sum of Money; I know it has coſt a great deal, but little in compariſon of what he mentions. But what if it has? Why then he ſays, 'tis reaſonable that the forfeitures there ſhould go to pay part of the reckoning. If the forfeitures, in Juſtice, ought to go to them that the troubles of *Ireland* have been moſt chargeable to, *England*, would find, when they came to a fair reckoning, that the Proteſtants of *Ireland* have the beſt claim

to them : For the whole War, that we were ſo long ingag'd in has not coſt us near ſo much as the Troubles of *Ireland* have coſt them : I mean in proportion to the People, and Wealth of the Kingdom. This reckoning will be eaſily underſtood, when we conſider, how long the Proteſtant Gentlemen of *Ireland* loſt the whole income of their Eſtates ; how many years after (and even to this day) their Eſtates yield but part of their ancient Rent ; how almoſt all the Herds, Flocks, and Goods, and Wealth of the Proteſtants were plundr'd and ſeis'd by their Enemies. This will ſhew how reaſonable it is by a reſumption to make them pay again for what they have ſo ſeverely paid for already.

Had one of the old *Iriſh* Kings rul'd abſolutely in that Kingdom, *England* would have been ſatisfied in this War to lay out a much greater Sum to keep it out of the hands, or Alliance of *France*, without deſiring to be reimburs'd, any more than in *Savoy* or *Flanders*.

But

But 'tis ſaid the K. has been miſinform'd in the value of his Grants, therefore a reſumption is highly reaſonable. If he has, there is an old way chalk'd out to remedy that. The cuſtom was to deſire the King to conſider the Merits of thoſe whom he had given to. But has he been miſinform'd in all? No ſure: why then a General Reſumption? But wherein has he been impos'd on? In the Perſons; or the Grants? There can be no great miſtake in the Perſons; ſome might have been recommended to his favour, and by their ſolicitations and importuning procure Grants, who had no great Merit: But the moſt conſiderable are perſons whoſe Merits he knew; and what rewards they deſerv'd; ſuch as have accompanied him in his dangers; and have ſerv'd him in his Wars, and particularly in his Great and Glorious Expedition to reſtore our Laws and Religion, and to ſecure the Liberty of *Europe*. Againſt ſome of theſe 'tis objected by ſome, that they are *Foreigners*, if they that came in to our Succour, to deliver us from Slavery are to be called

*Foreigners*, I can't tell how the *Samaritan* in the Goſpel could be call'd a *Neighbour*.

Some without excepting againſt very many of the perſons, ſay the Grants are Exorbitant. They are not ſure too Great for his Majeſty to give. Many of the Kngs of *England* have given much more than all them put together to private perſons in *Ireland*, in former times. *Henry Cromwell*'s Phſician paſs'd Patent for very near as many Acres of Land, as are even by the Commiſſioners return'd in the two beſt Grants of Forfeitures made by his Majeſty. But ſuppoſing the Grants to be great as they are repreſented : I humbly am of opinion, that 'tis more for the Honour and Intereſt of *England*, that they ſhould ſtand, than that *Roch*, who by ſwiming into *Derry* with the hazard of his Life preſerv'd that place, ſhould in a General Reſumption loſe his little Grant. Examples of our liberality in rewarding may be of advantage to us, but it cannot be either profitable or honourable, to tell the world we will not reward. We may have occaſion for the

the assistance of our Neighbours again, for the things of this world are very instable. This consideration may make it seem greater Wisdom in us, to let the Monuments of our Liberality stand, to encourage others hereafter, if occasion should be, to come to our Succour; than to deprive those of the Rewards of their Prince, who follow'd his Fortune and Dandangers, in his undertaking to Deliver and Preserve us.

But after all, let us see, whether these Grants are so extravagant or no. When we say they are too great, we mean that there is too much taken from the Publick; that they might have been sold for much, and the price given to help to bear the expences of the War. When we talk of what is given from us, we are to take things as they were when we call'd them ours. Had the Forfeitures in *Ireland* been sold for the use of the Publick in the year 1690, or some years after, 'tis certain they would not have rais'd near 200000 *l.* What then are the Exorbitant Grants that the King has given from us? Has

he

he given to all his Friends all that ſerv'd and ſuffer'd in that Kingdom twice as much as what the Parliament here gave to Duke *Schomberg*? 'Tis true the Grants now are repreſented to be much greater. 'Tis no wonder; 'twas the intereſt of thoſe who did it, to make large returns, otherwiſe the Commiſſion would have had an end. The Sum might very well be large, when they return'd forfeited Acres, one with another, about trible what they were valued by Sir *W. Petty*, who had as computing a head as other Men; (this is plain likewiſe in the private Eſtate which is return'd at 26000 *l. per annum*, when 'twas never ſet for above 8000 *l.*) when they have returned ſo ſmall incumbrances on Eſtates; when there are but four Intails return'd in all the forfeitures; when the Rent of 12000 *l. per annum* reſerved to the Crown on thoſe Grants is not conſider'd; when the number as well as value of Acres is magnified. If it ſhould happen that four or 500000 *l.* could be now rais'd (which ſure is the very utmoſt that can be) 'tis hardly worth *England*'s while, con-

conſidering how its gotten. It may be conſtrued by ſome as a particular ſlight put upon the K. many muſt ſuffer who have deſerv'd well of the Kingdom; legal Rights muſt be made void; great injury muſt be done to Purchaſers and Improvers; and a grievous inquiſition muſt afflict and unſettle that unhappy Kingdom.

This paper is written by a private diſintereſted perſon, one who inoffenſively to each particular, ſincerely deſires the general happineſs and proſperity of this Kingdom: one who heartily wiſhes a firm and immutable eſtabliſhment of this Government, and the Proteſtant Religion, in oppoſition to the incouragement of either Popery or Papiſt (whether Outlaw'd or others) to which we have reaſon to fear that we may be once again obnoxious, unleſs prevented by great Wiſdom and care.

*FINIS.*